

AMENDED IN ASSEMBLY JUNE 23, 2016

SENATE BILL

No. 1111

Introduced by Senator Pavley

February 17, 2016

An act to amend ~~Section~~ *Sections 5003.17, 5080.40, and 5080.42 of* of, and to add Article 1.5 (commencing with Section 520) to Chapter 1 of Division 1 of, the Public Resources Code, relating to state parks.

LEGISLATIVE COUNSEL'S DIGEST

SB 1111, as amended, Pavley. State parks: operating agreements.

Existing law vests control of the state park system with the Department of Parks and Recreation and authorizes the ~~Department of Parks and Recreation~~ department to enter into an operating agreement with a qualified nonprofit organization for the development, improvement, restoration, care, maintenance, administration, or operation of a unit or units, or portion of a unit, of the state parks system, as provided. Existing law provides that the department may only enter into an operating agreement for the entirety of a park unit for no more than 20 park units.

This bill would delete this provision. *The bill would authorize the department to enter into a strategic partnership with a park support organization, as defined, to develop and secure expertise, services, resources, and projects that are not readily available to the state park system for specified purposes relating to the funding, maintenance, visitation, use, facilities, and staffing of state parks, as provided. The bill would require the department to take specified actions relating to the development and implementation of such a strategic partnership and would authorize the Director of the Department of Parks and Recreation, or the director's designee, to serve as an ex officio, nonvoting member of the park support organization's board of directors.*

The bill would require the department to collaborate with the park support organization to develop an annual list of strategic initiatives and projects that are priorities for the state park system. The bill would authorize the department to receive donations of projects, services, and funds to be used for the support of the state park system. The bill would specify that the Director of Finance and the Attorney General shall have 60 days to review and approve or disapprove any strategic partnership agreement or substantial amendment of such an agreement.

Existing law authorizes the department to lease, for any use, all or any portion of any parcel of real property acquired for state park system purposes, if the director finds that the use would be compatible with the use of the real property as a unit or part of a unit and with the sound management and conservation of resources within the unit, but prohibits the department from entering into a lease that extends beyond 10 years unless certain conditions for the review and approval of a proposed lease as part of the annual budget process are met.

This bill would revise certain of those conditions for the review and approval of a proposed lease by appropriate policy and fiscal Committees of the Legislature, including the Joint Legislature Budget Committee, as specified.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 *SECTION 1. The Legislature finds and declares all of the*
- 2 *following:*
- 3 *(a) Changes to existing law are necessary to facilitate*
- 4 *implementation of reforms that have been recommended by the*
- 5 *Parks Forward Commission to ensure vibrant and sustainable*
- 6 *parks for all Californians and for present and future generations.*
- 7 *(b) The Department of Parks and Recreation needs to establish*
- 8 *a new strategic partnership with a nonprofit park support*
- 9 *organization that would complement and support the work of the*
- 10 *department by bringing new resources, expertise, and flexibility*
- 11 *to assist the department in accomplishing its mission.*
- 12 *SEC. 2. Article 1.5 (commencing with Section 520) is added*
- 13 *to Chapter 1 of Division 1 of the Public Resources Code, to read:*

Article 1.5. PARK SUPPORT ORGANIZATION

520. For purposes of this article, the following terms shall have the following meanings:

(a) “Park support organization” means a nonprofit organization that meets all of the following requirements:

(1) Is exempt from taxation pursuant to Section 501(c)(3) of the Internal Revenue Code.

(2) Is established for the principal purpose of increasing park access and visitation in ways that serve all Californians and visitors to the state, promote healthy lifestyles and community engagement, and support the protection and stewardship of California’s natural, cultural, and historical lands, sites, and resources.

(3) Complies with the Supervision of Trustees and Fundraisers for Charitable Purposes Act (Article 7 (commencing with Section 12580) of Chapter 6 of Part 2 of Division 3 of Title 2 of the Government Code).

(b) “Priority list” means the annual list of strategic initiatives and projects developed by the department and park support organization pursuant to Section 523.

521. (a) The department may enter into a strategic partnership with a park support organization to develop and secure expertise, services, resources, and projects that are not readily available to the state park system, for all of the following purposes:

(1) To develop and engage new sources of public and private funding for the state park system, including philanthropic sources and enterprise and revenue generation activities, where appropriate.

(2) To support marketing and communications activities that promote the programs, amenities, and resources of the state park system, the department, and its partners.

(3) To support projects that facilitate park access and visitation, particularly among younger and more diverse audiences.

(4) To promote the human health and well-being of the state’s residents.

(5) To establish and improve state park visitor amenities and facilities.

1 (6) *To recruit more diverse staffing and improve capacity for*
2 *state park programs.*

3 (7) *To advance the protection and stewardship of natural,*
4 *cultural, and historic lands, sites, and resources.*

5 (b) *If the department enters into a strategic partnership with a*
6 *nonprofit park support organization, it shall do all of the following:*

7 (1) *Collaborate with the park support organization, on an*
8 *ongoing basis, to identify, develop, and implement strategic*
9 *initiatives and projects that are priorities for the state park system.*

10 (2) *Communicate and coordinate with other park agencies,*
11 *partners, friends, and volunteers to ensure that activities*
12 *undertaken pursuant to the strategic partnership complement, and*
13 *do not supplant, ongoing partnerships, programs, and projects in*
14 *support of the state park system.*

15 (3) *Engage with the park support organization and other public*
16 *agencies and organizations that manage, operate, and support*
17 *other parks and protected lands in the state.*

18 522. *The director, or the director's designee, may serve as an*
19 *ex officio, nonvoting member of the park support organization's*
20 *board of directors in order to provide for effective communication*
21 *and coordination of efforts between the department and the park*
22 *support organization.*

23 523. (a) *If the department forms a strategic partnership with*
24 *a park support organization pursuant to this article, the department*
25 *shall collaborate with the park support organization to develop*
26 *an annual list of strategic initiatives and projects that are priorities*
27 *for the state park system and that the park support organization*
28 *will undertake in partnership with the department.*

29 (b) *Any initiative or project included on the priority list shall*
30 *be consistent with the purposes of subdivision (a) of Section 521.*

31 (c) *The department shall ensure that the priority list is prepared*
32 *in sufficient time to inform proposals for potential allocations of*
33 *funding in the annual Budget Act.*

34 (d) *The department shall post a copy of the priority list on its*
35 *Internet Web site, and shall provide copies of the list to the*
36 *chairpersons of the Senate Budget and Fiscal Review Committee,*
37 *the Assembly Committee on Budget, the Senate Natural Resources*
38 *and Water Committee, and the Assembly Water, Parks, and Wildlife*
39 *Committee.*

1 524. (a) *In order to establish and facilitate a strategic*
2 *partnership as described in subdivision (a) of Section 521, the*
3 *department shall enter into an agreement with the park support*
4 *organization that, at a minimum, shall include and specify all of*
5 *the following:*

6 (1) *Clear goals and objectives.*

7 (2) *Any commitments of oversight, staffing, and coordination*
8 *that are needed to accomplish the goals and objectives.*

9 (3) *The process for developing the priority list pursuant to*
10 *Section 523.*

11 (b) (1) *The department may develop and enter into*
12 *supplementary agreements with the park support organization for*
13 *the purposes of securing any expertise, capacity, or financial*
14 *resources that may be needed to identify, plan, develop, or*
15 *implement strategic initiatives and projects on the priority list.*
16 *Any such agreement may include, but not be limited to, grants,*
17 *contracts, memoranda of understanding, staff-sharing agreements,*
18 *leases, and rights of entry onto state park property.*

19 (2) *Notwithstanding Section 5003.17, the department may lease*
20 *to the park support organization, for a minimum rental of one*
21 *dollar (\$1.00) per year, real property that is owned by the state*
22 *and included in any unit of the state park system, if the lease*
23 *agreement requires the park support organization to construct, or*
24 *provide for the construction of, a structure or improvement on the*
25 *leased property and specifies that title to the structure or*
26 *improvement shall vest in the state at the expiration of the lease*
27 *term. The agreement may provide for the means or method by*
28 *which title to the structure or improvement shall vest in the state*
29 *before the expiration of that term.*

30 (3) *Notwithstanding Part 2 (commencing with Section 10100)*
31 *of Division 2 of the Public Contract Code, any agreements entered*
32 *into by the department pursuant to this subdivision shall be under*
33 *the control of the department and shall not be subject to any*
34 *advertising or competitive bidding requirements applicable to*
35 *public works or other public projects.*

36 (c) *The director may receive donations of projects, services,*
37 *and funds from the park support organization as authorized by*
38 *Sections 5005, 5009.1, 5009.2, and 5009.3.*

39 (d) *Subject to the availability of funds appropriated for that*
40 *purpose and pursuant to an agreement established under*

1 subdivision (b), the department may provide funds to the park
2 support organization for purposes of identifying, planning,
3 developing, or implementing strategic initiatives and projects on
4 the priority list.

5 (e) The Director of Finance and the Attorney General shall
6 have 60 days to review and approve or disapprove any strategic
7 partnership agreement or any substantial amendment to such
8 agreement, proposed under subdivision (a). Upon approval of the
9 agreement, or substantial amendment, the director may accept
10 donations and enter into agreements as authorized under
11 subdivisions (b) and (c).

12 525. Nothing in this article shall be interpreted as a limitation
13 on the ability of the park support organization to apply for, receive,
14 or administer grants, loans, or other funds from public entities
15 other than the department.

16 SEC. 3. Section 5003.17 of the Public Resources Code is
17 amended to read:

18 5003.17. (a) The department may lease, for any use, all or any
19 portion of any parcel of real property acquired for state park system
20 purposes, if the director finds that the use would be compatible
21 with the use of the real property as a unit or part of a unit and with
22 the sound management and conservation of resources within the
23 unit.

24 (b) Rent shall be based on the fair market value of the property
25 when used for the purpose for which it is leased. All rent shall be
26 deposited pursuant to Section 5010.

27 (c) The lease term shall not exceed 10 years. All leases are
28 subject to the approval of the Department of General Services.

29 (d) No lease shall be entered into that extends beyond the
30 10-year period unless the Legislature has reviewed and approved
31 the proposed lease as part of the annual budget process, or the
32 Public Works Board has determined that the proposed lease could
33 not have been presented to the Legislature for review and approval
34 in the course of its consideration of the Budget Bill and that it
35 would be adverse to the interests of the public to defer that review
36 and approval to a time when the Legislature next considers a
37 Budget Bill. Upon making that determination, the board may
38 review and approve the proposed lease after giving at least 20
39 days' written notice to the Chairperson of the Joint Legislative
40 Budget Committee and to the chairperson of the fiscal and

1 appropriate policy committees of its intended action. All actions
2 taken by the board pursuant to this subdivision shall be reported
3 to the Legislature in the next Governor's Budget. *both of the*
4 *following conditions are met:*

5 (1) *At least 30 days' prior written notice of the proposed lease,*
6 *including a copy of the proposed lease, has been provided by the*
7 *director to the appropriate policy and fiscal committees of the*
8 *Legislature, including the Joint Legislative Budget Committee.*

9 (2) *The director has included with the proposed lease sufficient*
10 *documentation to enable the Joint Legislative Budget Committee,*
11 *and any other appropriate legislative policy and fiscal committees,*
12 *to determine whether the lease conforms to the requirements of*
13 *this article and to evaluate fully all terms upon which the lease is*
14 *proposed to be let, including the amount of the rent and other*
15 *revenues that may be generated under the lease.*

16 SEC. 4. Section 5080.40 of the Public Resources Code is
17 amended to read:

18 5080.40. (a) No operating lease or agreement shall be entered
19 into, or amended, pursuant to this article unless ~~one of the~~
20 ~~following has occurred:~~ *at least 30 days' written notice and a copy*
21 *of the proposed operating lease or agreement, or amendment, has*
22 *been provided by the director to the appropriate policy and fiscal*
23 *committees of the Legislature and to the Joint Legislative Budget*
24 *Committee.*

25 (1) ~~The Legislature has reviewed the lease or agreement, or~~
26 ~~amendment, as part of the annual budget process or the~~
27 ~~requirements of paragraph (2) have been met.~~

28 (2) ~~Following enactment of the annual Budget Act, the State~~
29 ~~Public Works Board determines that the proposed lease or~~
30 ~~agreement or amendment could not have been presented to the~~
31 ~~Legislature for review during the annual budget process, or that~~
32 ~~the proposed lease or agreement or amendment was reviewed~~
33 ~~during the annual budget process but it is necessary to revise the~~
34 ~~terms of the lease or agreement or amendment in a material respect,~~
35 ~~and the State Public Works Board determines that it is adverse to~~
36 ~~the interests of the public to defer that review to the next annual~~
37 ~~budget process. Upon making its determination, the State Public~~
38 ~~Works Board may review and approve the proposed lease or~~
39 ~~agreement or amendment, or any revision thereof, not sooner than~~
40 ~~20 days after the board has provided written notification to the~~

~~Chairperson of the Joint Legislative Budget Committee, the Chairperson of the Assembly Ways and Means Committee, and the Chairperson of the Senate Budget and Fiscal Review Committee of the intended action. All actions taken by the State Public Works Board pursuant to this paragraph shall be reported to the Legislature in the next Governor's Budget.~~

(b) ~~The department~~ *director* shall include with the proposed lease or agreement or amendment sufficient documentation to enable the ~~Legislature or the State Public Works Board, as the case may be,~~ *Joint Legislative Budget Committee, and any other appropriate policy or fiscal committees of the Legislature*, to evaluate fully the estimated operating costs and revenues and all terms upon which the lease or agreement or amendment is proposed to be entered into. Specifically, the documentation shall identify both of the following:

(1) Any anticipated costs to the state for operation or development under the lease or agreement or amendment and the anticipated state share of total operation and development costs.

(2) The anticipated annual revenues, net of operation costs, for the unit and the state's share of these revenues.

(c) Leases or agreements shall be exempt from subdivisions (a) and (b) when all of the following conditions exist:

(1) The lease or agreement involves operation of only a portion of a unit of the state park system.

(2) The term of the lease or agreement is for a period of 20 years or less.

(3) The lease's or agreement's impact to the unit, including concessions revenue, will not exceed five hundred thousand dollars (\$500,000) in annual gross revenue generated on the property.

(4) The lease or agreement involves no significant change in state operational funding or staffing levels, and does not include present or future state expenditures for development of the unit.

(d) Amendments to existing leases or agreements shall be exempt from subdivisions (a) and (b) when all of the following conditions exist:

(1) The amendment involves operation of only a portion of a unit of the state park system.

(2) The amendment's impact to the unit will not exceed five hundred thousand dollars (\$500,000) in annual gross revenue generated on the property.

1 (3) The amendment involves no significant change in state
2 operational funding or staffing levels, and does not include present
3 or future state expenditures for development of the unit.

4 ~~SECTION 4.~~

5 *SEC. 5.* Section 5080.42 of the Public Resources Code is
6 amended to read:

7 5080.42. (a) Notwithstanding any other provision of this
8 article, the department may enter into an operating agreement with
9 a qualified nonprofit organization for the development,
10 improvement, restoration, care, maintenance, administration, or
11 operation of a unit or units, or portion of a unit, of the state park
12 system, as agreed to by the director. The prohibition on park
13 closures, pursuant to subdivision (a) of Section 541.5, does not
14 limit the department's authority to enter into an operating
15 agreement pursuant to this section, as provided in subdivision (e)
16 of Section 541.5. An operating agreement with a qualified nonprofit
17 organization shall include, but shall not be limited to, the following
18 conditions:

19 (1) The district superintendent for the department shall provide
20 liaison with the department, the nonprofit organization, and the
21 public.

22 (2) The nonprofit organization shall annually submit a written
23 report to the department regarding its operating activities during
24 the prior year and shall make copies of the report available to the
25 public upon request. The report shall be available on the Internet
26 Web sites of both the department and the nonprofit organization.
27 The report shall include a full accounting of all revenues and
28 expenditures for each unit of the state park system that the
29 nonprofit organization operates pursuant to an operating agreement.

30 (3) (A) Except as provided in subparagraph (B), all revenues
31 that the qualified nonprofit organization receives from a unit shall
32 be expended only for the care, maintenance, operation,
33 administration, improvement, or development of the unit. The
34 qualified nonprofit organization may additionally contribute in-kind
35 services and funds raised from outside entities for the care,
36 maintenance, operation, administration, improvement, or
37 development of the unit.

38 (B) If the qualified nonprofit organization determines that the
39 revenues it has received from a unit are in excess of the revenues
40 that are needed for the care, maintenance, operation, administration,

1 improvement, or development of that unit, and that these funds
2 are not already specified for or committed to specific purposes
3 pursuant to an existing agreement or contract restricting the use
4 of those funds, the qualified nonprofit organization may dedicate
5 those excess revenues to another state park unit for that unit's care,
6 maintenance, operation, administration, improvement, or
7 development.

8 (4) General Fund moneys shall not be provided to a nonprofit
9 organization to subsidize the operation or maintenance of a park
10 unit. This paragraph applies to state parks, the full operation of
11 which are turned over to a nonprofit organization, but does not
12 apply to or preclude the department from entering into agreements
13 with nonprofit organizations to operate a portion of a state park
14 unit, or from entering into comanagement agreements with
15 nonprofit organizations that involve the sharing of operational and
16 financial responsibilities for the park unit and that have the effect
17 of reducing state costs. This paragraph does not apply to park
18 entrance fees, concession revenues, or any other revenues generated
19 within a park operated by a nonprofit organization pursuant to this
20 section.

21 (b) An operating agreement entered into pursuant to subdivision
22 (a) shall honor the existing term of a current concession contract
23 for the state park unit subject to the operating agreement.

24 (c) An operating agreement entered into pursuant to subdivision
25 (a) shall specify the duties that the nonprofit organization shall be
26 responsible for carrying out relative to management and protection
27 of natural, historical, and cultural resources, and shall identify
28 those management duties that shall continue to be conducted by
29 the department, so that all core operations of the park are
30 delineated. Scientific, architectural, and engineering functions that
31 require special expertise or professional training shall only be
32 conducted by or under the supervision of qualified persons with
33 applicable expertise or training and subject to oversight by the
34 department.

35 (d) This section does not supersede the requirements of Section
36 5019.53 regarding the protection of natural, scenic, cultural, and
37 ecological values.

38 (e) The nonprofit organization and the district superintendent
39 for the department shall, following submittal of the annual report

1 pursuant to subdivision (a), hold a joint public meeting for
2 discussion of the report.

3 (f) If the department intends to enter into an operating agreement
4 for the development, improvement, restoration, care, maintenance,
5 administration, or operation of a unit or units, or a portion of a
6 unit, the department shall notify the Member of the Legislature in
7 whose district the unit is located, the Chair of the Senate Committee
8 on Natural Resources and Water, the Chair of the Assembly
9 Committee on Water, Parks, and Wildlife, and the chairs of the
10 Assembly and Senate budget committees of that intention. The
11 notification shall include estimated operating costs and revenues
12 and core duties and responsibilities that are likely to be assigned
13 to the nonprofit organization and the department.

14 (g) For purposes of this section, a qualified nonprofit
15 organization is an organization that is all of the following:

16 (1) An organization that is exempt from taxation pursuant to
17 Section 501(c)(3) of the Internal Revenue Code.

18 (2) An organization that has as its principal purpose and activity
19 to provide visitor services in state parks, facilitate public access
20 to park resources, improve park facilities, provide interpretive and
21 educational services, or provide direct protection or stewardship
22 of natural, cultural, or historical lands, or resources.

23 (3) An organization that is in compliance with the Supervision
24 of Trustees and Fundraisers for Charitable Purposes Act, Article
25 7 (commencing with Section 12580) of Chapter 6 of Part 2 of
26 Division 3 of Title 2 of the Government Code.

27 (h) (1) Notwithstanding Section 10231.5 of the Government
28 Code, the department shall provide a report to the Legislature, on
29 a biennial basis, of the status of operating agreements it has entered
30 into pursuant to this section. The report shall include a list of units
31 of the state park system with operating agreements, discussion of
32 the management and operations of each unit subject to an operating
33 agreement, an accounting of the revenues and expenditures incurred
34 under each operating agreement, and an assessment of the benefit
35 to the state from operating agreements entered into pursuant to
36 this section.

1 (2) A report submitted pursuant to paragraph (1) shall be
2 submitted in compliance with Section 9795 of the Government
3 Code.

O